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04/20/2006

Date

/Pamela Gerik/

Pamela Gerik

SUPPLEMENTAL APPEAL BRIEF

Dear Sir/Madam:

In response to the Notice of Non-Compliant Appeal Brief mailed on March 20, 2005, the Appellant presents this Amended Appeal Brief to correct errors in the format of the Appeal Brief filed on February 7, 2005. In addition to the corrections, the sections of Related Appeals and Interferences and the Related Proceedings Appendix have been updated to reflect the current state of the proceedings related to the captioned case. The Appeal was initiated by a Notice of Appeal filed December 7, 2004 following mailing of a Final Office Action on September 9, 2004. Appellant hereby appeals to the Board of Patent Appeals and Interferences the final rejection of claims 1-17 in the final Office Action, and respectfully requests that this appeal be considered by the Board.

I. REAL PARTY IN INTEREST

The subject application is owned by International Business Machines Corporation, a corporation having its principal place of business at New Orchard Road, Armonk, New York, 10504, as evidenced by the assignment recorded at Reel 011889, Frame 0158.

II. RELATED APPEALS AND INTERFERENCES

Notices of Appeal have been filed for the following applications, which share a common specification with the application currently on appeal.

09/870,613: Notice of Appeal filed 2/7/05; Appeal Brief filed April 7, 2005.

09/870,614: Notice of Appeal filed 10/26/04; Appeal Brief filed December 20, 2004.

09/870,615: Notice of Appeal filed 9/14/04; Appeal Brief filed November 9, 2004.

09/870,621: Notice of Appeal filed 9/24/04; Appeal Brief filed November 23, 2004.

09/870,622: Notice of Appeal filed 8/24/04; Appeal Brief filed October 25, 2004.

09/870,624: Notice of Appeal filed 5/23/05; Appeal Brief filed July 25, 2005.

The above-reference applications share similar cited art references; however, dissimilar art is cited in the present application. As such, Appellants do not believe that the outcome of this appeal will have any bearing on the Board's decision on the related appeals. No other appeals or interferences are known which would directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

Claims 1-17 stand finally rejected. No claims have been allowed, withdrawn, objected to or canceled. Claims 1-17 are being appealed.

IV. STATUS OF AMENDMENTS

No amendments to the claims were filed subsequent to their final rejection. The Appendix hereto therefore reflects the current state of the claims.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Appellant's claimed subject matter comprises a computer-readable memory medium, a method, and a computer-readable storage device which include and/or are configured to use an application program and an operating system for drawing an object, such as text and other displayable content, embodied as code within software. (Specification – page 13, lines 1-4 and 10-12; page 16, lines 25-30; page 17, lines 1-2; FIG. 1, reference number 18; and FIG. 13). In particular, the computer-readable

memory medium and the computer-readable storage device include and the method utilizes a first software component invoked during runtime by the application program to create a graphical representation of the object for defining visual attributes of text of an object, but not to draw the text. (Specification – page 32, lines 16-18). The computer program further includes a second software component invoked to draw the text using the visual attributes. (Specification – page 33, lines 20-25). In some cases, the drawing the text using the visual attributes may include fetching code that is independent of the operating system. (Specification – page 13, lines 4-6).

VI. GROUNDS OF REJECTIONS TO BE REVIEWED ON APPEAL

1. Claims 1, 3-10 and 12-17 are rejected under 35 U.S.C. §103(a) over a publication written by Matthew T. Nelson, entitled *Java Foundation Classes* (hereinafter “Nelson”).
2. Claims 2 and 11 are rejected under 35 U.S.C. §103(a) over Nelson in view U.S. Patent No. 6,005,588 to Guha (hereinafter “Guha”).

VII. ARGUMENT

The contentions of the Appellant with respect to the grounds of rejections presented for review, and the basis therefore, with citations of the statutes, regulations, authorities, and parts of the record relied on are presented below for consideration by the Board.

A. Patentability of Claims 1, 3-10 and 12-16

1. **Nelson fails to provide teaching or suggestion for a first software component that is adapted to: (i) create a graphical representation of an object embodied by code, which includes text and other displayable content, and (ii) define visual attributes of the text without drawing the text.**

Independent claim 1 states in part:

A computer-readable memory medium, comprising: a first software component adapted to create a graphical representation of an object embodied as code within the software component, wherein the code comprises text and other displayable content ... wherein the first software component is invoked during runtime by the application program to define visual attributes of the text, but not to draw the text.

Independent claim 8 (a method) and independent claim 16 (a computer-readable storage device) recite similar limitations.

Nelson provides an overview of the Java Foundation Classes, which include Swing classes and others (Nelson, page xxv). Nelson, however, does not teach or suggest a first software component that is adapted to: (i) create a graphical representation of an object embodied by code, which includes text and other displayable content, and (ii) define visual attributes of the text without drawing the text. Statements in the Final Office Action suggest that teaching for the presently claimed first software component may be found on pages 694, 697 and 78 of Nelson (*See*, e.g., Final Office Action, pages 2-3). The Appellant respectfully disagrees, and traverses the Examiner's assertion of teaching on a point-by-point basis in more detail below.

On page 694, Nelson introduces the Swing JTextField Component and notes that the component may be used for getting simple text input and editing single-line text strings. Contrary to the statements in the Final Office Action, however, the Swing JTextField Component cannot be used to provide teaching or suggestion for the presently claimed first software component. For example, the Swing JTextField Component cannot be used for defining the visual attributes of a text string associated with a text field, without also drawing the text string if it is specified. If the text string is not specified, the JTextField Component may be used to create a new text field without drawing any text. However, such a case is inconsistent with the presently claimed first software component, which specifically includes "text and other displayable content" within the object code of the first software component. In order for the JTextField Component to read upon the presently claimed first software component, there must be some teaching or suggestion within Nelson for not drawing any text when a text string (e.g., "Horatio Hornblower", as shown on page 694 of Nelson) is specified for the JTextField Component. Such teaching or suggestion simply cannot be found on page 694, or anywhere else within the teachings of Nelson.

On page 697, Nelson describes how a border of the Swing JTextField Component may be changed by using the "setBorder" and "setBackground" methods. Though the "setBorder" and "setBackground" methods may be used to change the "look" of the Swing JTextField Component (e.g., by selecting a different type of border or background color), the methods cannot be used either separately, or in conjunction with the JTextField Component, to provide teaching or suggestion for the presently claimed first software component. For example, if the "setBorder" and "setBackground" methods are considered separately, the methods do not provide teaching or suggestion for the presently claimed first software component, since neither the "setBorder" nor the "setBackground" method is adapted to create a graphical representation of an object. Instead, and as noted above, the "setBorder" and the "setBackground" methods are merely used to select a type of border and a background color, respectively.

Even if the “setBorder” and “setBackground” methods were combined with the Swing JTextField Component, the combination of software components and methods would still fail to provide teaching or suggestion for the presently claimed first software component. Since Nelson fails to teach or suggest that the JTextField Component may refrain from drawing text when a text string is specified, and the “setBorder” and “setBackground” methods have absolutely nothing to do with drawing text, the software components and methods cannot be combined in such a way to provide the presently claimed first software component and/or the functionality thereof. As a consequence, absolutely no teaching or suggestion can be found on page 697 of Nelson for the presently claimed first software component.

On page 3 of the Final Office Action, the Examiner suggests that “Nelson further teaches on page 78, UI class having separate groups of code to get the look-and-feel, and to draw the text ... [for example] it teaches a UI class that doesn’t know what the text control contains or what the contents should look like, but uses `getDocument()` and `getStyledDocument()` methods.” The Examiner’s suggestions are repeated on page 7 of the Response to Arguments section of the Final Office Action. In the above Office Action statements, the Examiner appears to suggest that a Swing UI class may be used to “get the look-and-feel” of a Text Component, while the `getDocument()` and `getStyledDocument()` methods may be used for drawing the text attributable to the Text Component. Therefore, the Examiner appears to rely on a Swing UI class to provide teaching for the presently claimed first software component and the `getDocument()` and `getStyledDocument()` methods to provide teaching for the presently claimed second software component. The Appellant respectfully disagrees with the Examiner’s suggestions, as set forth in more detail below.

Contrary to the Examiner’s statements, the `getDocument()` and `getStyledDocument()` methods are not used for drawing the text attributable to a Text Component, but instead, are used merely for accessing or fetching a document (or styled document) associated with the Text Component. These methods are embodied within the Text Component, and may be used by a Swing UI class to get the document (or styled document) when it is time for the Swing UI class to draw the Text Component. See, e.g., Nelson, page 78, under the heading of “Interacting with Text Components.” Since the `getDocument()` and `getStyledDocument()` methods (as described on page 78 of Nelson) are not used for actually drawing text, the methods cannot be considered equivalent to the presently claimed second software component. The Examiner’s implied suggestion of such is hereby traversed.

In addition, though a Swing UI class may be used to “get the look-and-feel” of a Text Component, a Swing UI class cannot be considered equivalent to the presently claimed first software component, as recited in claims 1 and 8. For example, a Swing UI class does not contain code, which includes text and other content to be displayed, as clearly specified in the presently claimed first software component. Instead of including text and other displayable content, the Swing UI class (or “Look-and-Feel class”) of Nelson simply includes “a reference back to the Text Component” (See, Nelson, page 78, emphasis added). A “reference back to a Text Component” cannot be considered equivalent to the actual text, itself.

For the UI class of Nelson to read upon the first software component, the UI class would have to include the presently claimed “code comprising text and other displayable content,” as well as the visual attributes to be used in displaying the text, without including additional code for drawing the text. As noted above, the UI class of Nelson does NOT include “code comprising text and other displayable content.” In addition, Nelson specifically states that the UI class includes “code for drawing the [text] component ...” and “is responsible for drawing the [text] component” (Nelson, page 78). Since the UI class of Nelson is responsible for drawing the text (See, Nelson, page 78, under the heading of “Interacting with Text Components”), the UI class of Nelson cannot be considered equivalent to the presently claimed first software component, as apparently suggested by the Examiner.

On page 8 of the Response To Arguments section of the Final Office Action, the Examiner states, “[t]he applicant’s argue that the JTextField component cannot be used for defining the visual attributes of a text string without also drawing the text string. In response, the examiner respectfully submits that Nelson teaches on page 695 that there is a constructor that is able to transfer a complete document (with defined text) from [one] text component to another.” The Appellants are confused as to how a “constructor that is able to transfer a complete document from one text component to another” can be used to provide teaching for the presently claimed first software component. Transferring a complete document from one text component to another is not a claimed feature of the invention.

The Examiner further states, “[i]t is further shown that pages 73 and 75 [of Nelson] teach the limitation of one software component for defining and one software component for drawing the actual text, [regardless of] whether or not these components are JTextField and JLabel or not. The applicant has further admitted on page 11 of their response [to the Office Action mailed May 13, 2004] that separate groups of swing based code can be used for setting the look and feel of a displayed object and for drawing text within or upon the displayed object.” (Final Office Action, page 8). In the above Office Action

statements, it appears that the Examiner is attempting to find some teaching within Nelson (or Applicant's previous remarks) by interpreting the claim language more broadly than it reasonably allows. However, during patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." MPEP 2111.

Present claims 1, 8 and 16 recite limitations on a first software component, which is adapted to create a graphical representation of an object (which is embodied as code including text and other displayable content), and a second software component adapted for drawing the text. More specifically, the presently claimed first software component may be invoked during runtime to define visual attributes of the text, without drawing the text, whereas the second software component may be invoked to draw the text using the visual attributes. By interpreting the invention to include "one software component for defining and one software for drawing the actual text," the Examiner improperly broadens the limitations actually recited in claims 1, 8 and 16. Appellant's assert that the claims cannot be interpreted so broadly, so as to enable portions of the claim limitations to be overlooked during examination. For example, one cannot ignore the fact that the presently claimed first software component includes object code comprising text and other displayable content, as recited in present claims 1 and 8. As noted above, the Swing UI class disclosed, e.g., on page 78 of Nelson does not include the actual text (or "Document") associated with the Text Component, and therefore, cannot be considered equivalent to the presently claimed first software component. In providing such a loose interpretation of the presently claimed case, the Examiner fails to provide sufficient evidence within Nelson for the limitations actually recited in present claims 1, 8 and 16.

2. There is no motivation to modify the teachings of Nelson to provide the presently claimed first software component.

The Appellant also wishes to traverse, or otherwise correct, another statement that was made in the Final Office Action. On page 3 of the Final Office Action, the Examiner suggests that it "would have been obvious to one of ordinary skill in the art, having the teachings of Nelson that the JtextField and JLabel components could be combined, to allow for one [of the] components to handle look-and-feel and one component to handle the displaying of the text."

First of all, Nelson provides absolutely no teaching, suggestion, motivation or even desirability for combining the JtextField and JLabel components. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed.Cir.

1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992); MPEP 2143.01. The combination proposed by the Examiner simply cannot be made since no teaching, suggestion or motivation exists within Nelson.

Furthermore, even if the JTextField and JLabel components were somehow combined (without sufficient motivation to do so), the proposed combination would not only fail to read upon the present claims, but would also change the principle operation of the JTextField and JLabel components. If proposed modification or combination would change the principle of operation of the prior art invention being modified, then the teachings of the reference is not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959).

For example, although the JTextField and JLabel components can each be used for displaying text on a display screen, the JTextField component is used for displaying editable text, whereas the JLabel component is used for displaying static text, and thus, has no editing capability. *See*, e.g., Specification, page 33, lines 3-6. If the JTextField and JLabel components were somehow combined (as suggested by the Examiner), it is conceivable that the JTextField component could lose its editing capability, or the JLabel could gain editing capability where none is desired, thereby changing the principle operation of the components. Regardless, Appellants assert that the JTextField and JLabel components cannot be combined in a manner that would read upon the presently claimed first and second software components, as they are actually recited in claims 1, 8 and 16. As noted above, suggesting that the Swing JTextField and JLabel components could be combined “to allow for one [of the] components to handle look-and-feel and one component to handle the displaying of the text,” is an unreasonably broad interpretation of claim limitations.

3. The Examiner has failed to adequately support and/or establish a *prima facie* ground of obviousness.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all claim limitations. MPEP § 2143. None of these three criteria have been met by the Examiner in the present case. First of all, no suggestion or motivation to modify the teachings of Nelson can be found within Nelson to teach or suggest the aforementioned limitations of claims 1, 8 and 16, as explained above in Argument 2. The criterion of a reasonable expectation of

success cannot be met if no teaching, suggestion or motivation exists, because there is then nothing at which to be successful. Finally, Nelson fails to teach all of the limitations of claims 1, 8 and 16, as explained above in Argument 1. The third criterion recited above has therefore also not been met, and a *prima facie* case of obviousness has not been established.

As explained in Arguments 1-3 above, at least some limitations of claims 1, 8 and 16, and therefore, at least some limitations of claims 2-7, 9-15 and 17, are not taught or suggested by the cited art. Furthermore, there is no teaching, suggestion or motivation to modify the cited art to teach the limitations of these claims. For at least the reasons set forth above, claims 1-17 are patentably distinct over the cited art. Therefore, the rejection of claims 1, 3-10 and 12-16 under 35 U.S.C. §103(a) is asserted to be erroneous.

B. Patentability of Claim 17

Because claim 17 is dependent from claim 1, the arguments presented above for patentability of claims 1, 3-10 and 12-16 apply equally to claim 17, and are herein incorporated by reference. In addition to the arguments presented above with respect to claims 1, 3-10 and 12-16, arguments are provided below to establish patentability of the current claim under 35 U.S.C. § 103(a).

- 1. Nelson fails to provide teaching, suggestion or motivation for a peer component, which is adapted for redirecting a call to invoke text drawing methods of the second software component rather than the text drawing methods of the first software component.**

Claim 17 states in part, “[t]he memory ... further comprising a peer component adapted for redirecting a ... call to invoke text drawing methods of the second software component rather than text drawing methods of the first software component.” For example, and as noted above, the presently claimed case provides lightweight peer components (i.e., JTextFieldPeer and JFastLabelPeer) for redirecting calls, initially intended to invoke the text drawing methods of the Swing JTextField and JLabel components, to an internal fast text drawing routine embodied within the presently claimed second software component. *See, e.g.*, Specification, page 32, lines 14-28 and page 33, line 14 to page 34, line 2.

In addition to failing to disclose the presently claimed first and second software components, Nelson fails to provide teaching, suggestion or motivation for a peer component, which redirects a call to invoke the text drawing methods of the second software component rather than the text drawing methods of the first software component. However, the Examiner suggests that teaching for the presently claimed

peer component can be found within Nelson. For example, the Examiner states, “Nelson teaches, on pages 694, 697, 472, and on page 72, a system for drawing text where one component can define attributes of an item and the actual displaying of the item can be implemented by another item.” (Final Office Action, page 6). The Appellant respectfully disagrees, as described in more detail below.

First of all, “a system for drawing text where one component can define attributes of an item and the actual displaying of the item can be implemented by another item,” is not equivalent, nor can it be interpreted to read upon the presently claimed peer component. In addition, the Appellants assert that no teaching, suggestion or motivation for the presently claimed peer component -- which redirects a call to invoke the text drawing methods of the second software component rather than the text drawing methods of the first software component -- can be found within the pages cited by the Examiner, or anywhere else within the teachings of Nelson. As such, Nelson cannot be relied upon to provide teaching or suggestion for the limitation recited in present claim 17.

2. There is no motivation to modify the teachings of Nelson to provide the presently claimed peer component.

Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed.Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992); MPEP 2143.01. Absent any teaching, suggestion, or motivation to do so, Appellants assert that the teachings of Nelson cannot be modified to provide teaching for the presently claimed peer component, as recited in claim 17.

3. The Examiner has failed to adequately support and/or establish a *prima facie* ground of obviousness.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all claim limitations. MPEP § 2143. None of these three criteria have been met by the Examiner in the present case. First of all, no suggestion or motivation to modify the teachings of Nelson can be found within Nelson to teach or suggest the aforementioned limitations of claim 17, as explained above in Argument 2. The criterion of a reasonable expectation of success cannot

be met if no teaching, suggestion or motivation exists, because there is then nothing at which to be successful. Finally, Nelson fails to teach all of the limitations of claim 17, as explained above in Argument 1. The third criterion recited above has therefore also not been met, and a *prima facie* case of obviousness has not been established.

As explained in Arguments 1-3 above, the limitation recited in claim 17 is not taught or suggested by the cited art. Furthermore, there is no teaching, suggestion or motivation to modify the cited art to teach the limitation of that claim. For at least the reasons set forth above, claim 17 is patentably distinct over the cited art. Therefore, the rejection of claim 17 under 35 U.S.C. § 103(a) is asserted to be erroneous.

C. Patentability of Claims 2 and 11

Because claims 2 and 11 are dependent from claims 1 and 8, respectively, the arguments presented above for the patentability of claims 1 and 8 apply equally to claims 2 and 11, and are herein incorporated by reference. In addition to the arguments presented above with respect to claims 1 and 8, arguments are provided below to establish patentability of the current claims under 35 U.S.C. § 103(a).

Guha cannot be combined with Nelson to provide teaching or suggestion for the first software component, as recited in present claims 1 and 8.

The secondary reference to Guha is not cited against present claims 1 and 8. However, the Appellant wishes to point out that since Guha also fails to provide teaching or suggestion for the presently claimed first software component, Guha cannot be combined with Nelson to overcome the deficiencies therein. In other words, the combination of Guha and Nelson would still fail to provide teaching or suggestion for the presently claimed first software component, as recited in claims 1 and 8.

As explained in the Argument above, Guha and Nelson cannot be combined to teach or suggest all limitations of claims 1 and 8. Furthermore, there is no teaching, suggestion or motivation to modify the cited art to teach the limitations of those claims. Since claims 2 and 11 are dependent on claims 1 and 8, respectively, claims 2 and 11 are patentably distinct over the cited art for at least the same reasons as claims 1 and 8. Therefore, the rejection of claims 2 and 11 under 35 U.S.C. § 103(a) is asserted to be erroneous.

* * *

For the foregoing reasons, it is submitted that the Examiner's rejection of claims 1-17 was erroneous, and reversal of the Examiner's decision is respectfully requested.

The Commissioner is hereby authorized to charge the required fee(s) to deposit account number 50-3268/5468-07500.

Respectfully submitted,
/Mollie E. Lettang/
Mollie E. Lettang
Reg. No. 48,405
Agent for Appellant

Customer No. 35617
Date: April 20, 2006
JMF

VIII. APPENDIX

The present claims on appeal are as follows.

1. A computer-readable memory medium, comprising:

a first software component adapted to create a graphical representation of an object embodied as code within the software component, wherein the code comprises text and other displayable content;

an application program running under an operating system; and

a second software component adapted for drawing the text, wherein the first software component is invoked during runtime by the application program to define visual attributes of the text, but not to draw the text, and wherein the second software component is invoked to draw the text using the visual attributes.
2. The memory as recited in claim 1, wherein the operating system places the text to be drawn in a buffer, and wherein the first software component enables the buffered text to be edited prior to being drawn.
3. The memory as recited in claim 1, wherein the first software component is used for drawing the graphical representation of the object on a display screen, and wherein the second software component is used for drawing the text upon the graphical representation of the object.
4. The memory as recited in claim 3, wherein the first software component is adapted to support undo and redo editing of the text drawn upon the graphical representation of the object.
5. The memory as recited in claim 1, wherein the object is part of a graphical user interface associated with the application program.
6. The memory as recited in claim 1, wherein the application program is written in Java programming language.

7. The memory as recited in claim 1, wherein the first and second software components comprises a Java virtual machine of a Swing application program interface.

8. A method for drawing an object embedded within software code, said object comprising text and other displayable content created by an application program running under an operating system, the method comprising:

executing a first software component to create a graphical representation of the object to define the visual attributes of the object without creating the text attributable to the object; and

executing a second software component to draw the text attributable to the object by using the visual attributes to fetch code that is independent of the operating system.

9. The method as recited in claim 8, wherein said executing a first software component comprises creating a label upon the display absent any text.

10. The method as recited in claim 8, wherein said executing a first software component comprises creating a border upon the display absent any text within the border.

11. The method as recited in claim 8, further comprising the operating system placing the text to be drawn in a buffer, and wherein said executing a first software component comprises editing the buffered text prior to the buffered text being drawn.

12. The method as recited in claim 8, further comprising using the first software component to draw the graphical representation of the object on a display screen, and using the second software component to draw the text upon the graphical representation of the object.

13. The method as recited in claim 12, further comprising the first software component supporting undo and redo editing of the text drawn upon the graphical representation of the object.

14. The method as recited in claim 8, wherein the object is part of a graphical user interface associated with the application program.

15. The method as recited in claim 8, further comprising using the second software component to establish an appearance and behavior of the object that are independent of the operating system.

16. A computer-readable storage device, comprising:

a windows-based operating system;

an application program running under the operating system;

an object and text associated with the object, both created at runtime by the application program, wherein the application program is adapted for:

invoking a first software component adapted for creating a graphical representation of the object and defining visual attributes of the object without drawing the text; and

invoking a second software component adapted for drawing the text using the visual attributes.

17. The memory as recited in claim 3, further comprising a peer component adapted for redirecting a memory call to invoke text drawing methods of the second software component rather than text drawing methods of the first software component.

IX. EVIDENCE APPENDIX

No evidence submitted pursuant to 37 C.F.R. § 1.130, 1.131, 1.132 of this title has been entered during the prosecution of the captioned case. In addition, no evidence has been entered by the examiner.

X. RELATED PROCEEDINGS APPENDIX

No decisions have been rendered by a court or the Board in any proceeding identified above in Section II of the captioned appeal brief. The proceedings for the appeals of 09/870,613, 09/870,614, 09/870,621, 09/870,622, and 09/870,624 are still pending review by the Board. Prosecution of 09/870,615 was reopened after its appeal brief was filed. Subsequent prosecution for 09/870,615 included a Notice of Allowance mailed on 3/3/05 and the issuance of U.S. Patent 6,918,093 on 7/12/05.